



Presentation Details:

Slides: 18

Slide 1 Slide 1 Duration: 00:00:11 Advance mode: Auto	Notes: Landing Slide
Slide 2 Title II / Section 504 Duration: 00:00:49 Advance mode: Auto	Notes: <p>The primary method of ensuring that all FHWA recipients and public entities comply with ADA and 504, including STAs, is through the investigation and resolution of ADA/504 complaints. FHWA has the authority under Title II of the ADA and Section 504 to receive complaints against its recipients and public entities that have responsibility or road, highways and pedestrian facilities. These regulations have specific procedures with respect to processing, investigation, resolution and enforcement. Any person who believes that he or she has been subjected to discrimination or retaliation prohibited on the basis of disability under Title II of the ADA or Section 504 may file a written complaint with the FHWA.</p>
Slide 3 ADA / 504 Complaint Types Duration: 00:00:38 Advance mode: Auto	Notes: The types of ADA/504 complaints that the FHWA may receive include, but are not limited to the following: <ul style="list-style-type: none"> • Failure by an STA or local government to provide accessible pedestrian facilities (such as curb ramps installation, maintain sidewalks, accessible pedestrian signals). • Denial of a request by a local government for reserved disabled parking spaces, or on-street parking. • Failure to provide accommodations to STA programs, services, and activities such as public meetings. • Failure to provide accessible STA buildings and facilities such as highway rest areas, and • Alleged discriminatory treatment due to a disability by an STA in providing programs, services, activities or benefits.
Slide 4 Next... Duration: 00:00:20 Advance mode: Auto	Notes: <p>We will now review the lists of procedures developed to ensure fair, timely processing of ADA and Section 504 violation complaints. These procedures cover those complaints received by the FHWA—not the STA. Complaints received by the STA are processed according to their ADA or Section 504 grievance procedures in accordance with Title II and Section 504.</p>
Slide 5 Complaint Procedures Duration: 00:00:25 Advance mode: Auto	Notes: <p>The procedures for filing complaints includes the following guidelines:</p> <ul style="list-style-type: none"> • All ADA and/or Section 504 complaints will be investigated by the Division Office or the State Transportation Agency. • For ADA or Section 504 complaints directly received by the Division Office, a copy of the complaint is forwarded to the Office of Civil Rights for review. • The complaint is then assigned an identification (or complaint) number and entered into the tracking system of the U.S. Department of Transportation.

<p>Slide 6 Complaint Procedures Continued... Duration: 00:00:24 Advance mode: Auto</p>	<p>Notes:</p> <ul style="list-style-type: none"> For ADA and/or Section 504 complaints made against an STA, the FHWA (whether the Division Office is located in the same state as the STA, the FHWA Resource Center or the FHWA Office of Civil Rights) will investigate the complaint. Reports generated from the investigation are forwarded to the Office of Civil Rights for review and issuance of a Letter of Finding.
<p>Slide 7 Complaint Procedures Continued... Duration: 00:00:48 Advance mode: Auto</p>	<p>Notes:</p> <ul style="list-style-type: none"> For ADA and/or Section 504 complaints instated against a local entity: <ul style="list-style-type: none"> The Division Office has the option of allowing the accused STA to conduct an investigation. In such a case, the reports generated by the investigation are forwarded to the Division Office to be reviewed for completeness. When it is determined that all reports are complete, the reports are then forwarded to the Office of Civil Rights for final review and issuance of a Letter of Finding. However, if the STA does not wish to investigate complaints instated against them, the Division Office will conduct the investigation. Either way, an investigation will take place. The FHWA Office of Civil Rights will issue a Letter of Finding to the complainant and issue a decision memorandum to the Division Office once a final determination has been reached regarding the complaint at hand.
<p>Slide 8 Complaint Procedures Continued... Duration: 00:00:14 Advance mode: Auto</p>	<p>Notes:</p> <ul style="list-style-type: none"> The Division Office then receives the decision memorandum that states whether there is a finding of compliance or non-compliance. For a finding of non-compliance: <ul style="list-style-type: none"> The Office of Civil Rights provides the Division Office with instructions regarding the implementation of required corrective actions. When corrective action is required, the Division Office sends a letter to the affected STA, or local entity, stating what corrective action is necessary. In addition, the Division Office outlines the designated time frames for completion of the action.
<p>Slide 9 Complaint Procedures Continued... Duration: 00:00:11 Advance mode: Auto</p>	<p>Notes:</p> <ul style="list-style-type: none"> The Division Office is expected to provide periodic updates on the state of the corrective action to the Office of Civil Rights. All ADA or Section 504 complaints are required to remain open until all corrective actions have been addressed and completed. <p>Note: All complaints received by the FHWA's Resource Center or complaints received by the Division Offices will be forwarded to the proper authorities for appropriate action.</p>

<p>Slide10 Compliance Review One Interaction type: Choices Passing score: 70 Instructions: None Custom Message: None</p>	<p>Questions:</p> <ol style="list-style-type: none"> 1. The primary ADA/504 complaint types address _____. <ol style="list-style-type: none"> 1) Failure to provide accessible pedestrian facilities 2) Denial of disabled reserved parking requests 3) Failure to provide access to programs, services, or facilities 4) Discriminatory treatment 5) All of the above 2. Complaints received by the Division Office are copied to the EEOC. <ol style="list-style-type: none"> 1) True 2) False 3. When complaints are made against local entities, the FHWA Office of Civil Rights issues a _____ to the complainant. <ol style="list-style-type: none"> 1) Decision Memorandum 2) Complaint Receipt Letter 3) Letter of Finding 4) Motion to File a Law Suit 4. All complaints remain open until all corrective actions have been addressed and completed. <ol style="list-style-type: none"> 1) True 2) False
<p>Slide 11 Complaint Process Duration: 00:06:46 Advance mode: Auto</p>	<p>Notes:</p> <p>COMPLAINT ACCEPTANCE: Acceptance of a complaint will be determined by: *A complaint filed within the appropriate time frame *Whether complainant allegations fall under the covered basis of disability; and *Whether the allegations involve a program or activity of a recipient or public entity -----</p> <p>REASONS FOR COMPLAINT REJECTION: The complaint may be rejected by the FHWA Office of Civil Rights for investigation, for one or more of the following reasons: <ol style="list-style-type: none"> 1. The complaint is not filed within the time frame specified; 2. The complaint does not allege a basis covered by the statutes for which FHWA Headquarters Office of Civil Rights is responsible; 3. The complaint does not allege any harm with regard to covered programs or statutes; 4. The complainant requests the withdrawal of the complaint; 5. The complainant fails to respond to repeated requests for additional information needed to process the complaint; -----</p> <p>ADDITIONAL REASONS FOR COMPLAINT REJECTION:</p>

	<p>6. The complainant fails to accept a reasonable resolution as determined by the Headquarters Office of Civil Rights; 7. The complainant has filed a legal action in Federal District Court with the same basis and issues involved in the complaint; or 8. The same complaint allegations have been filed with another Federal, State or local agency</p> <p>-----</p> <p>NEXT STEPS UPON SUCCESSFUL COMPLAINT RECEIPT: When the complaint is received by the individual investigating the complaint, the complainant must be contacted to:</p> <ul style="list-style-type: none"> *Acknowledge receipt of the complaint *Confirm the wishes of the complainant to move forward with the complaint *Confirm the investigation and resolution of the allegations (if any) *Gather further facts to clarify the complaint <p>-----</p> <p>ADDITIONAL INVESTIGATOR RESPONSIBILITIES: The investigator should also confirm that the public entity identified in the complaint is a recipient or potential recipient of Federal Financial Assistance from the FHWA, in order to determine whether the FHWA has jurisdiction under Section 504 as well as Title II ADA. This information can be obtained in the FHWA's Division Office for the State in which the public entity is located. It should be noted that since all STAs and MPOs receive FHWA funds, they fall under the jurisdiction of the ADA's Title II and Section 504.</p> <p>-----</p> <p>IPs AND RFIs: Following contact made with a complainant, the approach for addressing the complaint is developed and provided in the form of an outlined Investigative Plan (or IP). Once written, a cover letter and Request for Information (or RFI) is prepared and sent to the appropriate party. The cover letter, sent with the RFI, shall provide the following information:</p> <ul style="list-style-type: none"> *Allegations of the complainant *Statutory and/or regulatory authority to investigate *Confirmation of multiple recipients or other public entities involved *The name of the investigators *Explanation of prohibition against retaliation for filing of a complaint; and *Freedom of Information Act language <p>-----</p> <p>INVESTIGATOR REQUESTS: In the RFI, the investigator should request the applicable records that are germane to the complainant's allegations. In most cases, the investigator will need to request policies, procedures and processes, and records that involve similar situations or individuals. For example, if a complainant alleges that an STA failed to provide her with a sign language interpreter at a public meeting, then the investigator would request the STA's policies and procedures and processes for the provision of auxiliary aids and for the conduct of public meetings. The investigator would also request information on other individuals who requested auxiliary aids, further reviewing how previous requests made by individuals with hearing limitations were handled. In those instances involving facility accessibility, it may be necessary to request maps, blueprints, photographs, and the recipient's or public entity's ADA or Section 504 transition plan.</p> <p>-----</p> <p>NEXT STEPS...AUDITS AND REVIEWS: Once the information contained in the RFI is received by the investigator, it must be thoroughly reviewed by the investigator via a desk audit. After that review is completed, an on-site visit and/or interviews of involved individuals must be scheduled. With respect to facility accessibility issues, it is crucial that on-site visits be conducted. In doing this, it would be necessary to take</p>
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	<p>photographs and/or measurements of non-compliant facilities in order to determine if the facilities meet applicable accessibility standards.</p> <p>-----</p> <p>COMPLETION OF INVESTIGATION: Once the investigative activities are completed, the investigator will write an Investigative Report (or IR). The IR will provide basic information about the complaint, investigative methodology, applicable regulations, facts gathered during the course of the investigation, analysis, and conclusions. The conclusions will contain a recommendation of a finding of compliance or non-compliance with the ADA and/or Section 504.</p> <p>-----</p> <p>FINAL DECISIONS: Finally, the IR provides a recommended final disposition of the complaint. For instance, the IR may suggest resolving the complaint via a settlement agreement, if there is a finding of a violation. However, in a case where there is no finding of a violation, the IR may suggest closing the complaint. Either way, all final agency decisions (or FADs) and dismissals will be issued by the FHWA Office of Civil Rights, including all ADA decisions. The investigator will forward the investigative report, investigative file, and a recommended decision to the Director of Investigations and Adjudication. The FAD will also have the concurrence of the FHWA Associate Administrator for Civil Rights. The determination of the Director is the final decision, there is no formal appeal or reconsideration process for the FAD.</p> <p>-----</p> <p>FOLLOW-UP AND ADDITIONAL ACTIONS: In the event the FHWA concludes there is non-compliance with the laws or regulations as alleged, the investigative report will outline the recommendations for corrective action. The respondent will be provided adequate time to comply with the recommendations in accordance with ADA and Section 504 guidelines. In the event the FHWA concludes that the respondent is in compliance with laws or regulations, and the complainant disagrees, the complainant may, if dissatisfied, file an action in the appropriate U.S. District Court, as decisions issued by the FHWA are administratively final.</p> <p>-----</p> <p>ISSUES OF NON-COMPLIANCE: In instances of non-compliance, the Civil Rights Specialist (in collaboration with other Division specialists, as appropriate) shall make every attempt to resolve issues through informal means. If there is a failure to comply, the Civil Rights Specialist may recommend to the Division Administrator the withholding of Federal funds and/or review by the U.S. Department of Justice for appropriate action.</p>
<p>Slide 12 Who Can File? Duration: 00:00:14 Advance mode: Auto</p>	<p>Notes: Any person who believes that he, she, or any specific class of persons has been subjected to discrimination or retaliation, or they feel they have been prohibited access on the basis of disability as defined in Title II of the ADA or by Section 504, they may file a written complaint with FHWA. The complaint may be filed by the affected individual or a representative of that individual such as an attorney or advocate.</p> <p>Private parties may bring lawsuits to enforce their rights under Title II of the ADA. The remedies available are the same as those provided under Section 504. In some cases, a reasonable attorney's fee may be awarded to the prevailing party. If a lawsuit is filed at the same time as the complaint and contains the same or similar allegations and issues, the FHWA will administratively close the complaint because of the litigation.</p>

<p>Slide 13 Who Receives Complaints? Duration: 00:00:11 Advance mode: Auto</p>	<p>Notes:</p> <p>Complaints may be filed with any Federal agency that provides financial assistance to the program in question, or with the Department of Justice, which will refer the complaint to the appropriate agency.</p> <p>The regulation designates eight Federal agencies to handle complaints filed under Title II.</p>
<p>Slide 14 Who Receives Complaints? Continued... Duration: 00:00:54 Advance mode: Auto</p>	<p>Notes:</p> <p>These agencies are designated to enforce Title II components applicable to State and local governments that exercise responsibilities, regulate, or administer services, programs, or activities. The agencies include:</p> <ul style="list-style-type: none"> • The Department of Agriculture. This agency is responsible for farming and the raising of livestock, including extension services. • The Department of Education. This agency oversees education systems and institutions and libraries. Health related schools are excluded. • The Department of Health and Human Services. This agency is responsible for schools of medicine, dentistry, nursing, and other health-related schools. It is also responsible for health care and social service providers and institutions, including grass-roots and community services organizations and programs. The DHHS oversees preschool and daycare programs, as well. • The Department of Housing and Urban Development is oversees State and local public housing, and housing assistance and referral.
<p>Slide 15 Who Receives Complaints? Continued... Duration: 00:01:02 Advance mode: Auto</p>	<p>Notes:</p> <ul style="list-style-type: none"> • The Department of Interior. This agency is responsible for overseeing US lands and natural resources, including parks and recreation, water and waste management, environmental protection, energy, historic and cultural preservation, and museums. • The Department of Justice is responsible for public safety, law enforcement, and the administration of justice, including courts and correctional institutions; commerce and industry, including banking and finance, consumer protection, and insurance; planning, development, and regulation (unless otherwise assigned); State and local government support services; and all other government functions not assigned to other designated agencies. • The Department of Labor oversees labor and the work force. • The Department of Transportation is responsible for transportation, including highways, public transportation, non-law enforcement traffic management, automobile licensing and inspection, and driver licensing. The FHWA, a division of the DOT, investigates complaints involving roadways and public rights-of-way pedestrian facilities such as sidewalks, curb ramps, and any program, service or activity that receives FHWA Federal-aid.

<p>Slide 16 Why Investigate Complaints? Duration: 00:00:08 Advance mode: Auto</p>	<p>Notes: The investigation and resolution of ADA and Section 504 complaints ensures that all FHWA recipients and public entities comply with the ADA and Section 504, including STAs. Because the FHWA has the authority under Title II to investigate and resolve complaints, recipients and public entities that have responsibility for road, highways and pedestrian facilities should remain careful to comply with such laws and regulations. If there are complaints, the complaints must be filed no later than 180 days from the date of the alleged discrimination.</p>
<p>Slide 17 Compliance Final Review Duration: 00:00:10 Advance mode: By user</p>	<p>Notes: N/A</p>
<p>Slide 18 END OF MODULE Duration: 00:00:15 Advance mode: Auto</p>	<p>Notes: N/A</p>